

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

Darren Starr

v.

Civil No. 05-cv-368-JD

Major Dennis Cox, et al.

O R D E R

Plaintiff's Motion for Sanctions for spoliation (document no. 52) is denied. The "incident" which might have been on the videotape and the disciplinary report was on or about May 6, 2006. Plaintiff did not seek copies on discovery until October 30, 2006. In the interim he had sought the video for a disciplinary hearing he assumed would occur. However, he was told on June 1, 2006 that no such hearing was scheduled. The videotape was reused by October and the disciplinary report lost or destroyed. Plaintiff made no demand or request to preserve from May to October from counsel or upper prison management. They were unaware until too late and there was no willful spoliation.

Plaintiff's motion (document no. 52) is denied. The

requested traverse has not been filed timely and will not be considered.

SO ORDERED.



James R. Muirhead
United States Magistrate Judge

Date: May 17, 2007

cc: Darren Starr, pro se
Mary E. Maloney, Esq.